

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION

) MDL No. 1456

) Civil Action No. 01-CV-12257 PBS

THIS DOCUMENT RELATES TO
01-CV-12257-PBS AND 01-CV-339

) Judge Patti B. Saris

) Chief Magistrate Judge Marianne B. Bowler

**[PROPOSED] AGREED ORDER CONCERNING
PLAINTIFFS' MOTION TO UNSEAL ALL CONFIDENTIAL OR
HIGHLY CONFIDENTIAL DESIGNATED DOCUMENTS
USED IN SUMMARY JUDGMENT PROCEEDINGS**

WHEREAS, in connection with the cross-motions for summary judgment now pending before the Court, plaintiffs and defendants Johnson & Johnson, Centocor, Inc., and Ortho Biotech Products, LP, (the "J&J Defendants"), moved for leave to file under seal several documents, including memoranda of law, declarations, exhibits and other materials; and

WHEREAS, on May 19, 2006, plaintiffs moved to unseal all documents filed in connection with the summary judgment motions; and

WHEREAS, in a "Procedural Order" dated May 25, 2006, the Court denied the initial motions to seal as to the summary judgment memoranda of law (except as to private medical information of the named plaintiffs), but provisionally allowed the motions to seal the exhibits, declarations and statements of facts submitted therewith; and

WHEREAS, after receipt of the Court's Procedural Order, counsel for plaintiffs and the J&J Defendants conferred and reached agreement as to which exhibits, declarations, fact statements and other summary judgment materials relating to the J&J Defendants should remain under seal; and

WHEREAS, the Court is satisfied that the parties have appropriately narrowed the materials to remain under seal to the items listed below;

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

(1) The following exhibit filed in connection with the parties' summary judgment motions shall remain under seal in its entirety: Exhibit 51 to *Class Plaintiffs' Response to the Johnson & Johnson Defendants' Local Rule 56.1 Statement in Support of Their Motion for Summary Judgment as to Class 1 and Class 2*; Exhibit 10 to the *Declaration of Andrew D. Schau in Support of the Johnson & Johnson Defendants' Motion for Summary Judgment as to Class 1 and Class 2*.

(2) The following exhibits shall be unsealed except that individual customer identities shall be redacted from the publicly-filed version of the documents: Exhibits 1 (all subparts), 2 (all subparts), 15, 20, 21 and 22 to the *Declaration of Jayson S. Dukes in Support of the Johnson & Johnson Defendants' Motion for Summary Judgment as to Class 1 and Class 2*, and Exhibits 1 (all subparts), 2 (all subparts), 15, 20, 21 and 22 to the *Corrected Declaration of Jayson S. Dukes in Support of the Johnson & Johnson Defendants' Motion for Summary Judgment as to Class 1 and Class 2*.

(3) The following exhibit shall be unsealed except as follows: Page 20 (lines 1-5) and page 79 (lines 8-12) to Exhibit 13 to the *Declaration of Andrew D. Schau in Support of the Johnson & Johnson Defendants' Motion for Summary Judgment as to Class 1 and Class 2*.

(3) Counsel for plaintiffs and the J&J Defendants are directed to file with the clerk's office copies of the summary judgment materials that reflect the above rulings. All other summary judgment materials relating to the J&J Defendants shall be unsealed.

Dated: June , 2006

Patti B. Saris
United States District Judge